



WISCONSIN
BANKERS
ASSOCIATION

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July 2, 1997

Director
Card Technology Division
Financial Management Service
U.S. Department of the Treasury
Room 526
Liberty Center
401 14th Street, S.W.
Washington, D.C. 20227

RE: Department of the Treasury, Financial Management Service's Proposed Rule on Electronic Benefits Transfer (EBT)

Dear Sir or Madam:

The Wisconsin Bankers Association ("WBA") is a trade association representing 360 state and national banks located in communities throughout Wisconsin. WBA wishes to comment on the proposed rule dealing with the Direct Federal electronic benefits transfer (EBT) program.

The Financial Management Service (Service) has proposed a rule which would establish bank accounts for unbanked recipients of Federal program benefits so they may receive these payments via electronic funds transfer (EFT). WBA is supportive of the Service's efforts to replace paper benefit distribution with EFT and electronic access in the form of a plastic card. Additionally, WBA views the unbanked recipients as a large, untapped market for the banking industry with the ability to expand banking relationships with these individuals, beyond EBT, for the betterment of both parties.

The proposed rule is broad in nature, describing the basic framework of how EBT will be established. Recent discussions with Wisconsin bankers elicited statements concerning the difficulty in commenting on the proposed rule without knowing more details, especially regarding the process of selecting financial agents, regulatory requirements and operational functions. The following summarizes the concerns and questions WBA and its member banks have on the proposed rule. WBA asks that these issues be researched and reviewed with clarification provided in the final rule.

Selection of Financial Agents. The proposed rule clearly indicates that EBT is for the unbanked. If the program is successful, one of two scenarios may evolve. First, the unbanked become comfortable with the banking system and open accounts, thereby becoming the banked. Second, the program becomes more popular than Direct Deposit and consumers demand to be given a choice between EBT and Direct Deposit regardless of their banking status.

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In either situation, the banks designated as Financial Agents for the Department of the Treasury ("Treasury") become the recipients of additional business and resulting additional income. Currently it appears that the Treasury intends to select large, multi-state money center banks as Financial Agents. Community banks are unfortunately effectively left out of the picture.

Treasury payments total in excess of \$1 trillion annually. According to the proposed rule, half of that amount is deposited by Direct Deposit (30 million individual payments annually). Ten million recipients of Federal payments are considered the unbanked. Monthly non-interest bearing deposits for these Americans in banks designated as Financial Agents will certainly have a positive impact on the deposit base of those institutions, and ultimately on the local community. Community banks could certainly benefit from the increase in deposits as well as larger money-center institutions.

WBA understands that designating a few large banks as Financial Agents for the Treasury may create some operating economies for the Treasury. However, WBA believes that the recipients of federal payments may be better served by banks in their own communities, especially in cases where there is an error or the customer needs some personal assistance. Consequently, WBA opposes the concept of Treasury designating banks to act as Financial Agents.

Account Issues. The proposed rule does not provide information with regard to fees and surcharging. WBA assumes the charging and surcharging of fees will be allowed in the same manner as such fees are currently assessed. Concern has also been expressed with regard to the bank's inability to close an account since the proposal provides that only the Treasury would have this capability. Will Treasury develop procedures for banks to follow to close an account if there is abuse or fraudulent activity with regard to the account? WBA is very concerned that Treasury will have control over the specific terms and conditions with regard to these accounts. A bank's ability to design products suitable to its marketplace is severely restricted. Moreover, banks would need to learn a new set of rules that do not apply to other bank products.

Regulators have stressed the importance of banks implementing "Know Your Customer" policies as part of a bank's compliance with the Bank Secrecy Act. Assuming this law applies to EBT recipients, what will constitute good identification of such recipients? Also, will TIN certification be required for these customers? Finally, will garnishments and the bank's right of setoff apply to these types of accounts in the same manner as all other accounts held by natural persons?

Accessibility Issues. Due to the large number of people who will be incapable of accessing their account via ATM or POS because of incapacity, WBA assumes that fiduciaries like Representative Payees will be appointed for these recipients. How will this process be established to safeguard against unauthorized use and other fraudulent activities that could result from the sharing of cards and PIN numbers?

There are small, rural communities and other areas of the United States where there are no ATM or POS terminals, or they are very limited. How will these recipients access their benefit monies if such access is only permitted through the use of a plastic card? Additionally, will the cards work in all terminals regardless of the specific network affiliated with that terminal?

Regulatory Issues. The proposed rule clarifies the applicability of Regulation E to these accounts. However, given the potentially significant opportunity for unauthorized use and other fraudulent activities, WBA believes that separate rules further limiting a bank's loss in such situations are appropriate.

WBA assumes that other Federal regulations will apply to these EBT accounts, like Truth in Savings, Expedited Funds Availability Act and others. WBA also assumes that appropriate state laws, like the Uniform Commercial Code, and a bank's own deposit account rules will apply to these accounts. Since the rule does not specifically address these issues, WBA would appreciate some clarification on the matter in the final rule.

WBA appreciates the opportunity to comment on this issue.

Sincerely,

A handwritten signature in cursive script, reading "Rose M. Oswald Poels".

Rose M. Oswald Poels
Vice President - Legal